

## Louisiana Law Review

---

Volume 1 | Number 2

January 1939

---

THE ADMINISTRATIVE PROCESS, by James M. Landis. Yale University Press, New Haven, 1938. Pp. 160. \$2.00.

Walter Gellhorn

---

### Repository Citation

Walter Gellhorn, *THE ADMINISTRATIVE PROCESS*, by James M. Landis. Yale University Press, New Haven, 1938. Pp. 160. \$2.00., 1 La. L. Rev. (1939)

Available at: <https://digitalcommons.law.lsu.edu/lalrev/vol1/iss2/19>

This Book Review is brought to you for free and open access by the Law Reviews and Journals at LSU Law Digital Commons. It has been accepted for inclusion in Louisiana Law Review by an authorized editor of LSU Law Digital Commons. For more information, please contact [kreed25@lsu.edu](mailto:kreed25@lsu.edu).

book. The reviewer would, however, appreciate a fuller and lengthier analysis, by Professor Frankfurter, of the influence of social and economic changes upon the construction and effect of the Constitution of the United States.

WALTER F. DODD\*

---

THE ADMINISTRATIVE PROCESS, by James M. Landis. Yale University Press, New Haven, 1938. Pp. 160. \$2.00.

*The Administrative Process* contains the four Storrs Lectures on Jurisprudence delivered by James M. Landis at the Yale Law School in 1938. It is a worthy companion of a distinguished predecessor, *The Nature of the Judicial Process*, in which are recorded the Storrs Lectures of Justice Cardozo, given in 1921.

Dean Landis writes in his customarily incisive style concerning "The Place of the Administrative Tribunal," "The Framing of Policies: The Relationship of the Administrative and Legislative," "Sanctions to Enforce Policies: the Organization of the Administrative," "Administrative Policies and the Courts." His effort—a successful one—is to avoid the uncritical labeling process which so often characterizes punditical oratory at bar association *Kaffee Klatsches* where administrative law is being given a professional massaging.

But to say that Mr. Landis avoids uncritical labeling is not to say that he is uncritical. He perceives possibilities of careless, uninformed, or abusive administrative action. What he recognizes, however, is that they are no more inherent in the administrative process than, let us say, in the judicial process. Unlike many lawyers, he concerns himself with doing more than viewing with alarm; he addresses himself to a consideration of ways and means of controlling the dangers.

The refreshing thing about Mr. Landis' comments is their insistence upon the improvement of administrative methods, rather than upon the development of judicial restraints of the administrative power to adjudicate.

Justice Stone has remarked that "Courts are not the only agency of government that must be assumed to have capacity to

---

\* Member of the Chicago Bar, formerly professor of political science at the University of Illinois and at the University of Chicago, and professor of constitutional law at Yale University.

govern," and Dean Landis adds that they are not "the only agency moved by the desire for justice." These are propositions which lawyers, schooled in the tradition of judge-worship (in the abstract), are prone to overlook. Further, lawyer-publicists tend to ignore the fact that only a minute fraction of administrative cases ever reach the stage of formal hearing, let alone the stage of appeal to a court. This single circumstance suggests the unwisdom of current efforts to extend the scope of judicial supervision over the adjudications of the administrative. For the possibilities of abusive action are fully present long before adjudication; and incalculable injury can be done, as Mr. Landis notes, merely by the institution of proceedings regardless of their outcome. Lawyers who are interested in the assurance that the administrative will function well and wisely should turn their attention from the courts and focus it instead on the administrative itself. It is there that "professionalism in spirit, the recognition that arbitrariness in the enforcement of a policy will destroy its effectiveness, and freedom from intervening irrelevant considerations," will produce the results that the sporadic, inexpert intrusion of the courts is unlikely ever to achieve. To such lawyers Dean Landis' lectures will give stimulation and insight, for they reflect the thought of an outstanding legal scholar who is now as well an experienced administrator. The volume should be on the required reading list of those whose thinking starts, rather than stops, when they hear the word "bureaucrat."

WALTER GELLHORN\*

---

TRADE ASSOCIATIONS IN LAW AND BUSINESS, by Benjamin S. Kirsh, in collaboration with Harold Roland Shapiro. Central Book Co., New York, 1938. Pp. 374. \$5.00.

In recent years there has been a plethora of treatises dealing with the application of legal principles to specific situations rather than particular branches of the law. For example, the rules of the law of negligence that govern an impact between two motor vehicles, are the same as those that are applicable to a collision between two horsedrawn carriages. Yet books have been written on the application of the law of negligence to automobiles. While works of this type may not contribute to the development of the law as a science, they, nevertheless, have a mission to perform. At times they serve as reference books. Then again such a work

---

\* Associate Professor Law, Columbia University.